

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA
DOCKET NO. 2001-418-T - ORDER NO. 2002-190
MARCH 18, 2002

IN RE: Application of Martin L. Brown, Jr. d/b/a)	ORDER APPROVING
Omni Moving & Storage Co., 5100 Two)	TRANSFER OF CLASS E
Notch Road, Columbia, SC 29204 to Transfer)	CERTIFICATE OF
Class E Certificate of Public Convenience and)	PUBLIC CONVENIENCE
Necessity No. 8178 to Omni Moving LLC,)	AND NECESSITY
1900 Broad River Road, Suite 108, Columbia,)	
SC 29210.)	

This matter comes before the Public Service Commission of South Carolina (“the Commission”) by way of the Application of Omni Moving LLC (“Omni” or “the Transferee”) to obtain by way of transfer Class E Certificate of Public Convenience and Necessity No. 8178 (“Certificate of PC&N”) currently held by Martin L. Brown, Jr. d/b/a Omni Moving & Storage Co. (“the Transferor” or “Brown”). The requested transfer is pursuant to a contract of sale of the company. Under the contract of sale, Brown is selling the company to Thomas M. Reaves, Jr., who has organized a Limited Liability Company by the name of Omni Moving LLC and who will operate the business under that name.

Subsequent to the filing of the Application, the Commission’s Executive Director instructed the Transferee to cause to be published a prepared Notice of Filing in newspapers of general circulation in the State of South Carolina. The Notice of Filing indicated the nature of the Application and advised all interested parties desiring to participate in the proceeding of the manner and time in which to file pleadings to be

included. One letter of protest, from Dale J. Cook Moving & Storage, Inc. of North Charleston, South Carolina, was filed with the Commission.

A hearing was held on January 31, 2002, at 2:30 p.m., in the Commission's hearing room. The Honorable William Saunders, Chairman, presided. Omni was represented by Scott A. Elliott, Esquire. F. David Butler, General Counsel, represented the Commission Staff.

A review of the Application reveals that the Transferor has certified the following: (1) that there are no debts or claims against the Transferor; (2) that there are no unremitted COD collections due shippers; (3) that there are no claims for loss of or damage to goods transported or received for transportation; (4) that there are no claims for overcharges on property transported; (5) that there are no interline accounts due other carriers; and (6) that there are no wages due employees of the Transferor.

Thomas M. Reaves, Jr., owner of Omni, appeared at the hearing and testified regarding Omni's abilities to provide the services which he seeks to provide in South Carolina pursuant to the transfer of the Class E authority. After learning of Mr. Brown's desire to sell the company, Mr. Reaves worked for Mr. Brown's business on weekends for approximately three months in order to learn the business and in an attempt to conduct due diligence before purchasing the business. Mr. Reaves opined that Mr. Brown's business appeared to be very profitable and that the business was constantly moving people around the city of Columbia. Further, Mr. Reaves learned that the business had developed as a strong, reputable company. Mr. Reaves also testified that he

has previous experience in the transportation industry as a self-employed mover of mobile homes and later as a self-employed truck driver.

Following his three month period of due diligence, Mr. Reaves purchased the business from Mr. Brown for one hundred thousand dollars. Mr. Reaves stated that he borrowed the money for the purchase price from a family friend who is also an investor in Omni. After purchasing the business, Mr. Reaves worked under Mr. Brown's supervision for a period of time. According to Mr. Reaves, Mr. Brown advised Mr. Reaves on performing estimates as well as on loading trucks to prevent damage to the loaded goods. Mr. Reaves has retained all of the employees who worked for Mr. Brown and has also hired additional employees. At this time, Mr. Reaves stated that he has seven laborers working for Omni while he is the only administrative employee.

According to Mr. Reaves, Omni is fit, willing, and able to perform the services authorized under Certificate of PC&N No. 8178. In the Application, Mr. Reaves certified that there are no outstanding judgments pending against Omni. Mr. Reaves testified that all of the trucks of the company are insured. Mr. Reaves also testified that he is aware that prior to the transfer being completed and the issuance of the Certificate of PC&N in his name that he must satisfy certain additional requirements including filing a tariff with the Commission and submitting a safety profile to the Commission. Further, Mr. Reaves acknowledged that the safety profile will necessitate maintaining driver qualifications, maintaining a drug testing program, and maintaining vehicle maintenance logs.

The Application also contains a list of equipment owned by Omni, and the equipment list shows that Omni owns seven vehicles. Mr. Reaves also testified that Omni

had purchased the equipment owned by Mr. Brown in connection with the purchase of the company. Further, Mr. Reaves submitted a copy of Omni's liability insurance policy demonstrating a liability limit of five hundred thousand dollars. See Hearing Exhibit 2. Mr. Reaves also stated that Omni carries cargo insurance as well. Included in the Application is an insurance quote indicating the Omni is aware of the cost of the necessary insurance coverage.

With the application, Mr. Reaves submitted bills of lading to demonstrate that the services under the Certificate of PC&N have been continuously offered and provided to the public for a period of time of not less than twelve months prior to the date of filing of the application. The bills of lading submitted with the Application spanned from September, 2000, through August, 2001, excluding October, 2000. At the hearing, Mr. Reaves supplemented those bills of lading with a bill of lading from September, 2000. See Hearing Exhibit 1 and Application. Further, Mr. Reaves stated that over the period of his involvement with the business that the business has remained good and profitable.

According to Mr. Reaves, the transfer of Certificate of PC&N No. 8178 from Mr. Brown to Omni will not adversely affect the service to the public under the certificate. Mr. Reaves explained that he had learned of Mr. Brown's high level of customer satisfaction. Further, Mr. Reaves stated that through hard work he hopes to meet and possibly exceed the level of customer care and satisfaction that has been established in this business. In fact, he sees no deterioration of the level of service provided under Certificate of PC&N No. 8178 under his management as opposed to that of Mr. Brown.

Mr. Reaves further testified that he is working with the Commission Staff to develop a detailed and specific tariff under which his company will operate. The proposed tariff submitted with the Application provided for very general categories. According to Mr. Reaves, the final tariff that he will submit will be a detailed tariff that will contain an itemized list of charges and services under which Omni will operate.

Bonnie Y. O'Connor testified in support of Mr. Reaves' Application. Ms. O'Connor is self-employed in a partnership providing interior design services. Ms. O'Connor stated that she has used Omni approximately eight to ten times to pick up furniture at her office in Irmo for delivery to clients. She stated that she has found Omni to be very helpful and courteous. She opined that Omni is fit and capable and that the public interest would be served by Omni continuing to provide service.

Upon consideration of the merits of the instant Application, the representations contained therein and the documentary evidence attached thereto, and the testimony and the documentary evidence produced at the hearing, the Commission makes the following findings:

(1) The transfer of Certificate of PC&N No. 8178 will not adversely affect the service to the public authorized by said Certificate. According to the evidence before the Commission, Mr. Brown has been providing services pursuant to this Certificate of PC&N since the Certificate was issued in 1989. Further, Mr. Reaves testified that his due diligence has led him to conclude that the area will support the business and that there exists a likelihood that the business will grow.

(2) The Transferee is fit, willing, and able to perform the services authorized under said Certificate of PC&N as set forth in 26 S.C. Code Ann. Regs. 103-133 (Supp. 2000). Specifically, the Transferee demonstrated fitness by certifying that there are no outstanding judgments pending and by demonstrating that he is financially fit to do business as a certified motor carrier. Further, Mr. Reaves has acknowledged that is aware that he must provide a satisfactory safety rating to the Commission and further that he is familiar with the Rules and Regulations governing for-hire motor carrier operations and has agreed to operate the business in compliance with those Rules and Regulations. The Transferee has demonstrated that he is able to provide the services by demonstrating that he has adequate equipment and personnel to provide the services under the Certificate. And the Transferee has provided evidence of willingness by having met the requirements of fit and able and by submitting the Application and completing the Application process.

(3) Finally, the Commission finds that the services authorized by Certificate of PC&N No. 8178 have been continuously offered and reasonably provided to the public for a period of time of not less than 12 months prior to the date of the filing of the Application. Accompanying the Application is a copy of Certificate of PC&N No. 8178, and Certificate of PC&N No. 8178 shows that it was issued in April 1989. Mr. Reaves provided documentary evidence in the form of bills of lading demonstrating that the services under Certificate of PC&N No. 8178 have been offered from September, 2000, through August, 2001. (See, Application and Hearing Exhibit No. 1).

Based upon the above stated findings, the Commission concludes that the proposed transfer of Certificate of PC&N No. 8178 from the Transferor to the Transferee

is in the public interest and that relief sought in the Application for the transfer of Class E Certificate of PC&N No. 8178 should be approved.

IT IS THEREFORE ORDERED THAT:

1. The proposed transfer of Certificate of Public Convenience and Necessity No. 8178 from Martin L. Brown d/b/a/ Omni Moving & Storage Co. to Omni Moving LLC should be, and hereby is, approved.

2. The Transferee shall file the proper license fees and other information required by S.C. Code Ann. §58-23-10 et seq. (1976), as amended, and by 26 S.C. Code Ann. Regs. 103-100 through 103-280 (1976), as amended, which are the Commission's Rules and Regulations for Motor Carriers, within sixty days from the date of this Order, or within such additional time as may be authorized by the Commission.

3. Upon compliance with S.C. Code Ann. § 58-23-10, et seq., (1976), as amended, and the applicable provisions of 26 S.C. Code Ann. Regs. 103-100 through 103-280 (1976), as amended, of the Commission's Rules and Regulations for Motor Carriers, a Certificate of Public Convenience and Necessity shall be issued to the Transferee authorizing the motor carrier services granted herein.

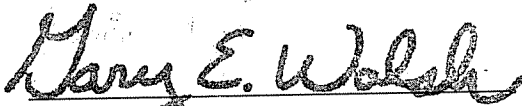
4. Prior to compliance with the requirements set forth herein and the receipt of a Certificate of Public Convenience and Necessity, the motor carrier services authorized herein shall not be provided.

5. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)